UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

In the Matter of the Search of
(Briefly describe the property to be searched or identify the person by name and address)

Information stored at Google that is related to active cellphones in close proximity to an arson at Harley-Davidson on June 1, 2020

Case No. 20-M-313 (SCD)

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

See Attachment A.

located in the Eastern District of Wisconsin, there is now concealed *(identify the person or describe the property to be seized)*:

See Attachment B.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☑ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	*Offense Description*
18 U.S.C. § 844(i)	Arson

The application is based on these facts:

See attached affidavit.

- ☑ Continued on the attached sheet.
- ☐ Delayed notice of _____ days *(give exact ending date if more than 30 days: _____)* is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

ATF SA Ryan Arnold
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone *(specify reliable electronic means)*.

Date: 6-10-2020

Judge's signature

City and state: Milwaukee, Wis

Stephen C. Dries, U.S. Magistrate Judge
Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT

I, Ryan Arnold, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a warrant to search information that is stored at premises controlled by Google, a provider of electronic communications service and remote computing service headquartered in Mountain View, California. The affiant's search warrant application is a narrow request for the information stored at Google that is related to active cellphones that were in close proximity to an arson that occurred at Harley-Davidson on June 1, 2020, between 1:00 a.m. and 1:45 a.m.

2. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a warrant under 18 U.S.C. § 2703(c)(1)(A) to require Google to disclose to the government the information further described in Attachment B.I. The government will then review that information and seize the information that is further described in Attachment B.II.

3. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and have been since April 2015. As an ATF Special Agent, I have participated in numerous investigations regarding the unlawful possession of firearms, unlawful use of firearms, firearms trafficking, drug trafficking, and arson.

4. Prior to my employment with ATF, I was a Special Agent with the United States Secret Service (USSS) for nearly 5 years. My duties included providing and planning dignitary protection, drafting and executing Federal search warrants, and investigating organized crime networks, threats against USSS protectees, fraud networks, counterfeit currency, and other financial crime investigations.

5. Before my tenure with the USSS, I served as a police officer with the Chicago, Illinois, Police Department (CPD). During part of my career as a CPD Officer, I was assigned to the Organized Crime Division-Gang Enforcement Unit. My responsibilities included the investigations of street gangs, narcotics distribution, firearms violations, robbery, home invasions, operating in an undercover capacity, and authoring and execution of search warrants.

6. I have participated in multiple ATF investigations that involved the seizure of computers, cellular phones, cameras, and other digital storage devices. I have participated in the subsequent analysis of electronic data stored within these computers, cellular phones, cameras, and other digital storage devices. On many occasions, this electronic data has provided evidence of the crimes being investigated and corroborates information already known or suspected by law enforcement. I know that in many of my investigations criminal activity is associated with the use of electronic devices that connect to the internet and social media platforms.

7. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other investigators and witnesses. This

affidavit is intended to show merely that there is sufficient probable cause for the requested search warrant and does not set forth all of my knowledge about this matter.

8. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of Title 18, United States Code, section 844(i) (arson), have been committed by unknown persons. There is also probable cause to search the information described in Attachment A for evidence of these crimes further described in Attachment B.

JURISDICTION

9. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. Specifically, the Eastern District of Wisconsin is "a district court of the United States that has jurisdiction over the offense being investigated." 18 U.S.C. § 2711(3)(A)(i).

BACKGROUND RELATING TO GOOGLE AND RELEVANT TECHNOLOGY

10. Based on my training and experience, I know that cellular devices, such as mobile telephone(s), are wireless devices that enable their users to send and receive wire and/or electronic communications using the networks provided by cellular service providers. In order to send or receive communications, cellular devices connect to radio antennas that are part of the cellular network called "cell sites," which can be mounted on towers, buildings, or other infrastructure. Cell sites provide service to specific geographic areas, although the service area of a given cell site will depend on factors including the distance between towers. As a result, information about what cell site a

cellular device connected to at a specific time can provide the basis for an inference about the general geographic location of the device at that point.

11. Based on my training and experience, I also know that many cellular devices such as mobile telephones have the capability to connect to wireless Internet ("Wi-Fi") access points if a user enables Wi-Fi connectivity. Wi-Fi access points, such as those created through the use of a router and offered in places such as homes, hotels, airports, and coffee shops, are identified by a service set identifier ("SSID") that functions as the name of the Wi-Fi network. In general, devices with Wi-Fi capability routinely scan their environment to determine what Wi-Fi access points are within range and will display the names of networks within range under the device's Wi-Fi settings.

12. Based on my training and experience, I also know that many cellular devices feature Bluetooth functionality. Bluetooth allows for short-range wireless connections between devices, such as between a mobile device and Bluetooth-enabled headphones. Bluetooth uses radio waves to allow the devices to exchange information. When Bluetooth is enabled, a mobile device routinely scans its environment to identify Bluetooth devices, which emit beacons that can be detected by mobile devices within the Bluetooth device's transmission range, to which it might connect.

13. Based on my training and experience, I also know that many cellular devices, such as mobile telephones, include global positioning system ("GPS") technology. Using this technology, the phone can determine its precise geographical

coordinates. If permitted by the user, this information is often used by apps installed on a device as part of the app's operation.

14. Based on my training and experience, I know Google is a company that, among other things, offers an operating system ("OS") for mobile devices, including cellular phones, known as Android. Nearly every cellular phone using the Android operating system has an associated Google account, and users are prompted to add a Google account when they first turn on a new Android device.

15. In addition, based on my training and experience, I know that Google is offers numerous online-based services, including email (Gmail), navigation (Google Maps), search engine (Google), online file storage (including Google Drive, Google Photos, and YouTube), messaging (Google Hangouts and Google Allo), and video calling (Google Duo). Some services, such as Gmail, online file storage, and messaging, require the user to sign in to the service using their Google account. An individual can obtain a Google account by registering with Google, and the account identifier typically is in the form of a Gmail address. Other services, such as Google Maps and YouTube, can be used while signed in to a Google account, although some aspects of these services can be used even without being signed in to a Google account.

16. In addition, based on my training and experience, I know Google offers an Internet browser known as Chrome that can be used on both computers and mobile devices. A user has the ability to sign in to a Google account while using Chrome, which allows the user's bookmarks, browsing history, and other settings to be synced across the

various devices on which they may use the Chrome browsing software, although Chrome can also be used without signing into a Google account. Chrome is not limited to mobile devices running the Android operating system and can also be installed and used on Apple devices.

17. Based on my training and experience, I know that, in the context of mobile devices, Google's cloud-based services can be accessed either via the device's Internet browser or via apps offered by Google that have been downloaded onto the device. Google apps exist for, and can be downloaded to, phones that do not run the Android operating system, such as Apple devices.

18. Based on my training and experience, I know that Google collects and retains location data from devices running the Android operating system when the user has enabled Google location services. Google then uses this information for various purposes, including to tailor search results based on the user's location, to determine the user's location when Google Maps is used, and to provide location-based advertising. In addition, I know that Google collects and retains data from non-Android devices that run Google apps if the user has enabled location sharing with Google. Google typically associates the collected location information with the Google account associated with the Android device and/or that is signed in via the relevant Google app. The location information collected by Google is derived from sources including GPS data, information about the cell sites within range of the mobile device, and information about Wi-Fi access points and Bluetooth beacons within range of the mobile device.

19. Based on my training and experience, I also known that Google collects and retains information about the user's location if the user has enabled Google to track web and app activity. According to Google, when this setting is enabled, Google saves information including the user's location and Internet Protocol address at the time they engage in certain Internet- and app- based activity and associates this information with the Google account associated with the Android device and/or that is signed in with the relevant Google app.

20. Location data, such as the location data in the possession of Google, can assist in a criminal investigation in various ways. As relevant here, I know based on my training and experience that Google has the ability to determine, based on location data collected via the use of Google products as described above, mobile devices that were in a particular geographic area during a particular time frame and to determine which Google account(s) those devices are associated with. Among other things, this information can inculpate or exculpate a Google account holder by showing that he was, or was not, near a given location at a time relevant to the criminal investigation.

21. Based on my training and experience, I know that when individuals register with Google for an account, Google asks subscribers to provide certain personal identifying information. Such information can include the subscriber's full name, physical address, telephone numbers and other identifiers, alternative email addresses, and, for paying subscribers, means and source of payment (including any credit or bank account number). In my training and experience, such information may constitute

evidence of the crimes under investigation because the information can be used to identify the account's user or users. Based on my training and my experience, I know that even if subscribers insert false information to conceal their identity, I know that this information often provide clues to their identity, location or illicit activities.

22. Based on my training and experience, I also know that Google typically retains and can provide certain transactional information about the creation and use of each account on its system. This information can include the date on which the account was created, the length of service, records of login (i.e., session) times and durations, the types of service utilized, the status of the account (including whether the account is inactive or closed), the methods used to connect to the account (such as logging into the account via the provider's website), and other log files that reflect usage of the account. In addition, Google often has records of the Internet Protocol address ("IP address") used to register the account and the IP addresses associated with particular logins to the account. Because every device that connects to the Internet must use an IP address, IP address information can help to identify which computers or other devices were used to access the account.

PROBABLE CAUSE

23. On or about June 1, 2020 at 1:33 a.m., police responded to an arson that was committed at a Harley-Davidson retail and dealership building (Harley-Davidson), located at 11310 W. Silver Spring Road, Milwaukee, Wisconsin. This act is a violation of

Title 18, United States Code, section 844(i) (arson). As a retail and dealership business, this is a location used in and affecting interstate commerce.

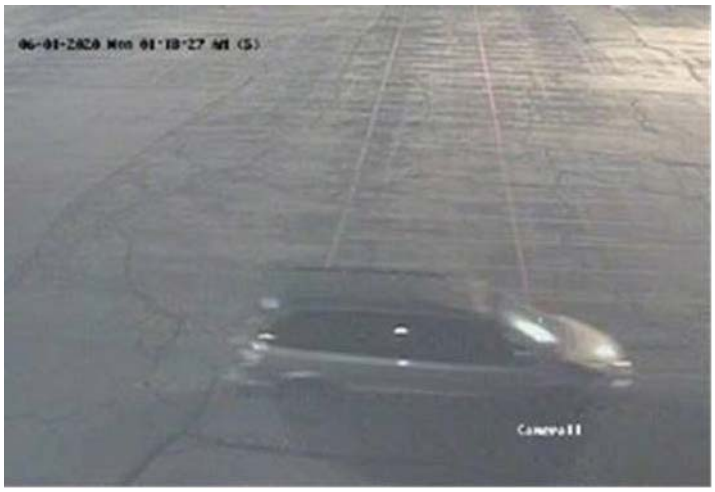
24. On June 1, 2020, at approximately 1:33 a.m., Milwaukee Police Officers arrived at the Harley-Davidson arson.[1] The officers saw that the dealership's glass front door was smashed and there was an active fire located near the front door and around a motorcycle on the inside. The fire damaged the floor and two motorcycles, and smoke damaged retail merchandise. Inside of the dealership, investigators located a melted bottle, which the affiant knows from training and experience can be evidence that a Molotov cocktail was used to ignite the fire. Based on the location of the fire, the affiant believes that the fire was intentionally ignited in order to damage or destroy the building.

25. On June 3, ATF agents found surveillance footage from two separate businesses. Footage from the Marathon Gas Station, which is located approximately 0.3 miles from Harley-Davidson, showed a minivan pulling into that business' parking lot at approximately 1:13 a.m. The minivan left the gas station and continued towards Harley-Davidson. The minivan was then captured on Silk Exotic Gentleman's Club's (Silk Exotic) surveillance footage, which is a business located next to Harley-Davidson. Silk Exotic and Harley-Davidson share a parking lot. Silk Exotic's footage showed the minivan driving from the direction of Harley-Davidson through the shared parking lot at approximately 1:18 a.m. (PHOTOGRAPH 1 depicts the minivan driving through Silk Exotic's parking

[1] For several days leading into June 1, Milwaukee experienced civil unrest and area businesses were targeted with arson and looting.

lot). It is important to note that a car must drive through Silk Exotic's parking lot in order to reach Harley-Davidson. Harley-Davidson is the only business accessible from driving through Silk Exotic's parking lot. Because of the timing of the minivan driving through the parking lot and the lack of other vehicles or people in the vicinity at that time, the affiant suspects that the occupants of the minivan were involved in the Harley-Davidson arson.

PHOTOGRAPH 1



26. The affiant believes that information stored at Google may assist in identifying the suspects involved in the Harley-Davidson arson. The affiant knows through training and investigative experience related to arson, civil unrest and looting in 2016 and 2020, that many people use their cellphones and social media accounts when participating in arsons, civil unrest, and looting. Many of the cellphones used by people engaged in arsons, civil unrest, and looting are running the Android operating system. I know Google is a company that, among other things, offers an operating system for mobile devices, including cellular phones, known as Android. Nearly every cellular

phone using the Android operating system has an associated Google account, and users are prompted to add a Google account when they first turn on a new Android device. Accessing the information stored at Google related to active cellphones that were in close proximity to Harley-Davidson on June 1, 2020, between 1:00 a.m. and 1:45 a.m., will assist law enforcement in developing the suspects.

27. Based on the foregoing, I submit that there is probable cause to search information in the possession of Google relating to what devices were in the Target Location described in Attachment A during the time period described in Attachment A, as well as information that identifies the Google accounts with which those devices are associated, for evidence of the crime(s) at issue in this case. Among other things, this information can inculpate or exculpate a Google account holder by showing that he was, or was not, near a given location at a time relevant to the criminal investigation.

28. In order to facilitate the manageable disclosure of and search of this information, the proposed warrant contemplates that Google will disclose the information to the government in stages rather than disclose all of the information for which the government has established probable cause to search at once. Specifically, as described in Attachment B.I:

a. Google will be required to disclose to the government an anonymized list of devices that specifies information including the corresponding unique device ID, timestamp, coordinates, and data source, if available, of the

devices that reported their location within the Target Location described in Attachment A during the period described in Attachment A.

b. The government will then review this list in order to prioritize the devices about which it wishes to obtain associated information.

c. Google will then be required to disclose to the government the information identifying the Google account(s) for those devices about which the government further inquiries.

CONCLUSION

29. Based on the forgoing, I request that the Court issue the proposed warrant, pursuant to 18 U.S.C. § 2703(c). I further request that the Court direct Google to disclose to the government any information described in Section I of Attachment B that is within its possession, custody, or control. Because the warrant will be served on Google, who will then compile the requested records at a time convenient to it, reasonable cause exists to permit the execution of the requested warrant at any time in the day or night.

ATTACHMENT A
Property To Be Searched

This warrant is directed to Google LLC and applies to:

(1) location history data, sourced from methods including GPS, Wi-Fi, and Bluetooth, generated from devices and that reported a device location within the geographical region bounded by the latitudinal and longitudinal coordinates, dates, and times below ("Initial Search Parameters"); and

(2) identifying information for Google Accounts associated with the responsive location history data.

Initial Search Parameters

- Date: June 01, 2020
- Time Period (including time zone): 1:00 AM to 1:45 AM (CST)
- Target Location: area of 11310 W. Silver Spring Road, Milwaukee, Wisconsin. Geographical area identified as:
    - A polygon defined by latitude/longitude coordinates connected by straight lines 43.120861, -88.055813, 43.121174, -88.053522, 43.119596, -88.053350, 43.119614, -88.047144, 43.118474, -88.047591, 43.118148, -88.051281, 43.119076, -88.051299, 43.119126, -88.055908, 43.120861, -88.055813.
- Time Restriction: Devices that reported their location as being within the Target Location on 1:00 a.m. to 1:45 a.m. (CST) on June 1, 2020.

ATTACHMENT B

Particular Items to Be Seized

I. Information to be disclosed by Google

Google shall provide responsive data (as described in Attachment A) to the government pursuant to the following process:

1. Google shall query location history data based on the Initial Search Parameters specified in Attachment A.

2. For each location point recorded within the Initial Search Parameters, Google shall produce to the government anonymized information specifying the corresponding unique device ID, timestamp, coordinates, display radius, and data source, if available (the "Anonymized List").

3. The government shall review the Anonymized List in order to prioritize the devices about which it wishes to obtain identifying information.

4. Google is required to disclose to the government identifying information, as defined in 18 U.S.C. § 2703(c)(2), for the Google Account associated with each device ID about which the government inquires.

II. Information to Be Seized

All information described above in Section I that constitutes evidence of violations of Title 18, United States Code, section 844(i) (arson), which were committed on June 1, 2020, involving unknown person(s).

CERTIFICATE OF AUTHENTICITY OF DOMESTIC RECORDS PURSUANT TO FEDERAL RULES OF EVIDENCE 902(11) AND 902(13)

I, _____, attest, under penalties of perjury by the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this certification is true and correct. I am employed by Google and my title is _____. I am qualified to authenticate the records attached hereto because I am familiar with how the records were created, managed, stored, and retrieved. I state that the records attached hereto are true duplicates of the original records in the custody of Google. The attached records consist of _____ electronic records and electronic spreadsheets I further state that:

a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth by, or from information transmitted by, a person with knowledge of those matters, they were kept in the ordinary course of the regularly conducted business activity of Google, and they were made by Google as a regular practice; and

b. such records were generated by Google electronic process or system that produces an accurate result, to wit:

1. the records were copied from electronic device(s), storage medium(s), or file(s) in the custody of Google in a manner to ensure that they are true duplicates of the original records; and

2. the process or system is regularly verified by Google, and at all times pertinent to the records certified here the process and system functioned properly and normally.

I further state that this certification is intended to satisfy Rules 902(11) and 902(13) of the Federal Rules of Evidence.

Date	Signature